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Globalization and interdependence: preventing and combating corrupt practices and transfer of funds of illicit origin and returning such assets to the countries of origin

Report of the Second Committee*

Rapporteur: Mr. Abdulmalik **Alshabibi** (Yemen)

I. Introduction

1. The Second Committee held a substantive debate on agenda item 54 (see A/60/490, para. 2). Action on sub-item (d) was taken at the 30th and 36th meetings, on 15 November and 13 December 2005. An account of the Committee's consideration of the sub-item is contained in the relevant summary records (A/C.2/60/SR.30 and 36).

II. Consideration of draft resolutions A/C.2/60/L.29 and A/C.2/60/L.54

2. At the 30th meeting, on 15 November, the representative of Jamaica, on behalf of the States Members of the United Nations that are members of the Group of 77 and China, introduced a draft resolution entitled "Preventing and combating corrupt practices and transfer of funds of illicit origin and returning such assets to the countries of origin" (A/C.2/60/L.29), which read:

> *"The General Assembly,*
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> *"Recalling* its resolutions 54/205 of 22 December 1999, 56/186 of 21 December 2001, 57/244 of 20 December 2002 and 58/205 of 23 December 2003, and recalling also its resolution 59/242 of 22 December 2004 on

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preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets to the countries of origin,

"*Recalling also* the Monterrey Consensus of the International Conference on Financing for Development, which underlined that fighting corruption at all levels is a priority, and the Plan of Implementation of the World Summit on Sustainable Development ('Johannesburg Plan of Implementation'),

"*Emphasizing* the need for solid democratic institutions responsive to the needs of the people and the need to improve the efficiency, transparency and accountability of domestic administration and public spending and the rule of law, to ensure full respect for human rights, including the right to development, and to eradicate corruption and build sound economic and social institutions,

"*Recognizing* that fighting corruption at all levels is a priority and that corruption is a serious barrier to effective resource mobilization and allocation and diverts resources away from activities that are vital for poverty eradication, the fight against hunger, and economic and sustainable development,

"*Noting* the particular concern of developing countries and countries with economies in transition regarding the return of assets of illicit origin derived from corruption to the countries from which they originated, consistent with the principles of the United Nations Convention against Corruption, in particular chapter V, in view of the importance that such assets can have to their sustainable development,

"*Recognizing* the concern over the transfer and/or transaction of assets of illicit origin, and stressing the need to address this concern consistent with the principles of chapter V of the United Nations Convention against Corruption,

"*Expressing concern* that a significant portion of the money laundered annually, which ranges from 600 billion to 1.8 trillion United States dollars, involves funds derived from corruption, and in this regard reiterating its commitment to the fight against corruption at all levels,

"*Recognizing* that the illicit acquisition of wealth can be particularly damaging to democratic institutions, national economies and the rule of law,

"*Convinced* that a stable and transparent environment for national and international commercial transactions in all countries is essential for the mobilization of investment, finance, technology, skills and other important resources, and recognizing that effective efforts at all levels to combat and avoid corruption in all its forms in all countries are essential elements of an improved national and international business environment,

"*Concerned* about the links between corruption in all its forms, including bribery, money-laundering and the transfer of assets of illicit origin, and other forms of crime, in particular organized crime and economic crime,

"*Reiterating* its concern about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and the values of democracy, ethical values and justice and

jeopardizing sustainable development and the rule of law, in particular when an inadequate national and international response leads to impunity,

"*Recalling* the development section of the 2005 World Summit Outcome,

"1. *Condemns* corruption in all its forms, including bribery, money-laundering and the transfer of assets of illicit origin;

"2. *Takes note* of the report of the Secretary-General;

"3. *Reaffirms* the commitment to make the fight against corruption a priority at all levels, and welcomes all actions taken in this regard at the national and international levels, including the adoption of policies that emphasize accountability, transparent public sector management and corporate responsibility and accountability, including efforts to return assets transferred through corruption, consistent with the United Nations Convention against Corruption, and urges all States that have not done so to consider signing, ratifying and implementing the Convention;

"4. *Welcomes* the efforts of Member States that have enacted laws and taken other positive measures in the fight against corruption in all its forms including, inter alia, in accordance with the United Nations Convention against Corruption, and in this regard encourages Member States that have not yet done so to enact such laws;

"5. *Encourages* all Governments to prevent, combat and penalize corruption in all its forms, including bribery, money-laundering and the transfer of illicitly acquired assets and to work for the prompt return of such assets through asset recovery consistent with the principles of the United Nations Convention against Corruption, particularly chapter V;

"6. *Encourages* subregional and regional cooperation, where appropriate, in the efforts to prevent and combat corrupt practices and the transfer of assets of illicit origin as well as for asset recovery consistent with the principles of the United Nations Convention against Corruption, particularly chapter V;

"7. *Calls for* further international cooperation, inter alia, through the United Nations system, in support of national, subregional and regional efforts to prevent and combat corrupt practices and the transfer of assets of illicit origin, as well as for asset recovery consistent with the principles of the United Nations Convention against Corruption, particularly chapter V;

"8. *Encourages* Member States to provide adequate financial and human resources to the United Nations Office on Drugs and Crime, and further encourages the Office to give high priority to technical cooperation, upon request, inter alia, to promote and facilitate the signing and ratification, acceptance, approval or accession and the implementation of the United Nations Convention against Corruption;

"9. *Reiterates* its request to the international community to provide, inter alia, technical assistance to support national efforts to strengthen human and institutional capacity aimed at preventing and combating corrupt practices and the transfer of assets of illicit origin as well as for asset recovery consistent with the principles of the United Nations Convention against

Corruption, particularly chapter V, and formulating strategies for mainstreaming and promoting transparency and integrity in both the public and the private sectors;

"10. *Urges* all Member States, consistent with the United Nations Convention against Corruption, to abide by the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law and the need to safeguard integrity and to foster a culture of transparency, accountability and rejection of corruption;

"11. *Calls upon* the private sector, at both the international and the national levels, including small and large companies and transnational corporations, to remain fully engaged in the fight against corruption, welcomes the agreement to add anti-corruption as the tenth principle of the Global Compact, and emphasizes the need for all relevant stakeholders, including within the United Nations system, as appropriate, to continue to promote corporate responsibility and accountability;

"12. *Encourages* all Member States that have not yet done so to require financial institutions to properly implement comprehensive due diligence and vigilance programmes, consistent with the principles of the United Nations Convention against Corruption and other applicable instruments, that could facilitate transparency and prevent the placement of illicitly acquired funds;

"13. *Also encourages* Member States to make adequate and regular voluntary contributions for the effective implementation of the United Nations Convention against Corruption, which is due to enter into force on 14 December 2005, through the Global Programme against Corruption of the United Nations Office on Drugs and Crime and/or in direct support of implementation activities and initiatives;

"14. *Reiterates* its invitation to all competent regional economic integration organizations to implement fully the United Nations Convention against Corruption as soon as possible;

"15. *Requests* the Secretary-General to submit to the General Assembly at its sixty-first session a report on the implementation of the present resolution and to elaborate further on the impact of corruption in all its forms, including on the scale of transfers of assets of illicit origin and the impact of corruption and such outflows on economic growth and sustainable development."

3. At its 36th meeting, on 13 December, the Committee had before it a draft resolution entitled "Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular, to the countries of origin, consistent with the United Nations Convention against Corruption" (A/C.2/60/L.54), which was submitted by the Vice-Chairman of the Committee, Mr. Juraj Koudelka (Czech Republic), on the basis of informal consultations held on draft resolution A/C.2/60/L.29.

4. At the same meeting, the Vice-Chairman orally corrected the text of the draft resolution.

5. Also at the same meeting, the Committee was informed that the draft resolution had no programme budget implications.

6. At the same meeting, the Committee adopted draft resolution A/C.2/60/L.54, as orally corrected (see para. 9).

7. After the adoption of the draft resolution, statements were made by the representatives of the United Kingdom of Great Britain and Northern Ireland (on behalf of the States Members of the United Nations that are members of the European Union, as well as Australia, Canada, Japan and Liechtenstein), Switzerland and the United States of America (see A/C.2/60/SR.36).

8. In the light of the adoption of draft resolution A/C.2/60/L.54, draft resolution A/C.2/60/L.29 was withdrawn by its sponsors.

III. Recommendation of the Second Committee

9. The Second Committee recommends to the General Assembly the adoption of the following draft resolution:

Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption

The General Assembly,

Recalling its resolutions 54/205 of 22 December 1999, 56/186 of 21 December 2001 and 57/244 of 20 December 2002, and recalling also its resolutions 58/205 of 23 December 2003 and 59/242 of 22 December 2004 on preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets to the countries of origin,

Recalling also the Monterrey Consensus of the International Conference on Financing for Development,[1] in which it was underlined that fighting corruption at all levels is a priority, and the Plan of Implementation of the World Summit on Sustainable Development ("Johannesburg Plan of Implementation"),[2]

Recalling further the 2005 World Summit Outcome,[3]

Emphasizing the need for solid democratic institutions responsive to the needs of the people and the need to improve the efficiency, transparency and accountability of domestic administration and public spending and the rule of law, to ensure full respect for human rights, including the right to development, and to eradicate corruption and build sound economic and social institutions,

Recognizing that fighting corruption at all levels is a priority and that corruption is a serious barrier to effective resource mobilization and allocation and diverts resources away from activities that are vital for poverty eradication, the fight against hunger, and economic and sustainable development,

Noting the particular concern of developing countries and countries with economies in transition regarding the return of assets of illicit origin derived from corruption to the countries from which they originated, consistent with the principles of the United Nations Convention against Corruption,[4] in particular chapter V, in view of the importance that such assets can have to their sustainable development,

Recognizing the concern about the transfer and/or transaction of assets of illicit origin derived from corruption, and stressing the need to address this concern

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[1] *Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002* (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex.

[2] *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

[3] See resolution 60/1.

[4] Resolution 58/4, annex.

consistent with the principles of chapter V of the United Nations Convention against Corruption,

Recognizing also that the illicit acquisition of wealth can be particularly damaging to democratic institutions, national economies and the rule of law,

Convinced that a stable and transparent environment for national and international commercial transactions in all countries is essential for the mobilization of investment, finance, technology, skills and other important resources, and recognizing that effective efforts at all levels to prevent and combat corruption in all its forms in all countries are essential elements of an improved national and international business environment,

Concerned about the links between corruption in all its forms, including bribery, corruption-related money-laundering and the transfer of assets of illicit origin, and other forms of crime, in particular organized crime and economic crime,

Reiterating its concern about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and the values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law, in particular when an inadequate national and international response leads to impunity,

Welcoming the initiatives taken by the Commonwealth Secretariat and the Group of Eight with regard to fighting corruption and improving transparency, including the initiative of the Group of Eight to support with bilateral technical assistance those countries committed to a partnership to increase transparency, good governance and the rule of law, and welcoming also the efforts of those Member States that have entered into "Compacts to Promote Transparency and Combat Corruption" with the Group of Eight,

1. *Condemns* corruption in all its forms, including bribery, money-laundering and the transfer of assets of illicit origin;

2. *Takes note* of the report of the Secretary-General;[5]

3. *Welcomes* the entry into force on 14 December 2005 of the United Nations Convention against Corruption;[4]

4. *Reiterates its invitation* to all Member States and competent regional economic integration organizations within the limits of their competence to ratify or accede to and fully implement the United Nations Convention against Corruption as soon as possible;

5. *Reaffirms* the commitment to make the fight against corruption a priority at all levels, and welcomes all actions taken in this regard at the national and international levels, including the adoption of policies that emphasize accountability, transparent public sector management and corporate responsibility and accountability, including efforts to return assets transferred through corruption, consistent with the United Nations Convention against Corruption;

6. *Welcomes* the efforts of Member States that have enacted laws and taken other positive measures in the fight against corruption in all its forms including, inter alia, in accordance with the United Nations Convention against Corruption,

[5] A/60/157.

and in this regard encourages Member States that have not yet done so to enact such laws and to implement effective measures at the national level and, in accordance with domestic law and policies, at the local level, to prevent and combat corruption;

7. *Encourages* all Governments to prevent, combat and penalize corruption in all its forms, including bribery, money-laundering and the transfer of illicitly acquired assets, and to work for the prompt return of such assets through asset recovery consistent with the principles of the United Nations Convention against Corruption, particularly chapter V;

8. *Further encourages* subregional and regional cooperation, where appropriate, in the efforts to prevent and combat corrupt practices and the transfer of assets of illicit origin as well as for asset recovery consistent with the principles of the United Nations Convention against Corruption, particularly chapter V;

9. *Calls for* further international cooperation, inter alia, through the United Nations system, in support of national, subregional and regional efforts to prevent and combat corrupt practices and the transfer of assets of illicit origin, as well as for asset recovery consistent with the principles of the United Nations Convention against Corruption, particularly chapter V;

10. *Encourages* Member States to provide adequate financial and human resources to the United Nations Office on Drugs and Crime, including for the effective implementation of the United Nations Convention against Corruption, and further encourages the Office to give high priority to technical cooperation, upon request, inter alia, to promote and facilitate the ratification, acceptance, approval of or accession to and the implementation of the Convention;

11. *Notes* the imminent finalization by the United Nations Office on Drugs and Crime, in cooperation with the United Nations Interregional Crime and Justice Research Institute, of the legislative guide for the ratification and implementation of the United Nations Convention against Corruption;

12. *Reiterates its request* to the international community to provide, inter alia, technical assistance to support national efforts to strengthen human and institutional capacity aimed at preventing and combating corrupt practices and the transfer of assets of illicit origin as well as for asset recovery consistent with the principles of the United Nations Convention against Corruption, particularly chapter V, and formulating strategies for mainstreaming and promoting transparency and integrity in both the public and the private sectors;

13. *Urges* all Member States, consistent with the United Nations Convention against Corruption, to abide by the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law and the need to safeguard integrity and to foster a culture of transparency, accountability and rejection of corruption;

14. *Welcomes the actions* by the private sector, at both the international and the national levels, including small and large companies and transnational corporations, to remain fully engaged in the fight against corruption, calls upon the private sector to continue to make efforts in this regard, takes note with appreciation of the work undertaken by the Global Compact in its consideration of its tenth principle, on anti-corruption, and emphasizes the need for all relevant stakeholders to continue to promote corporate responsibility and accountability;

15. *Encourages* all Member States that have not yet done so to require financial institutions to properly implement comprehensive due diligence and vigilance programmes, consistent with the principles of the United Nations Convention against Corruption and other applicable instruments, that could facilitate transparency and prevent the placement of illicitly acquired funds;

16. *Also encourages* Member States, relevant international organizations and the United Nations Office on Drugs and Crime to give prominence to 9 December as International Anti-Corruption Day, as established by the General Assembly in its resolution 58/4 of 31 October 2003;

17. *Expresses concern* about the magnitude of corruption at all levels, including the scale of the transfer of assets of illicit origin derived from corruption, and in this regard reiterates its commitment to preventing and combating corrupt practices at all levels;

18. *Requests* the Secretary-General to submit to the General Assembly at its sixty-first session a report on the implementation of the present resolution and to elaborate further on the magnitude of corruption at all levels, including the scale of the transfer of assets of illicit origin derived from corruption and the impact of corruption and such transfers on economic growth and sustainable development, and decides to include in the provisional agenda of its sixty-first session, under the item entitled "Globalization and interdependence", a sub-item entitled "Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption".